



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,138	01/15/2004	Ekaterina Anatolyevna Ponomarenko	9162Q	5777

27752 7590 11/24/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,138	Applicant(s) PONOMARENKO ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 15-18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the invention of Group I in the reply filed on 9-14-06 is acknowledged.

2. Claims 15-18 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9-14-06.

Specification

Drawings

3. The drawings were received on 5-25-06. These drawings are approved by the Examiner.

Description

4. The use of the trademark SPANDEX (page 9, line 26) and the trademarks on page 14, line 30, and page 15, lines 3, 8, and 11-12 have been noted in this application. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Trademarks should be shown in all capital letters or with a symbol but not both. The paragraph at page 15, lines 1-12 as amended 9-14-06 could not be entered as such did not comply with 27 CFR 1.121, e.g. shown as one paragraph and is originally two paragraphs.

5. The disclosure is objected to because of the following informalities: On page 4, lines 22-23 and page 20, lines 6-16, “through” (each) should be --Through--. The paragraph at page 20, lines 6-17 as amended 5-25-06 could not be entered because it did not comply with 37 CFR 1.121, i.e. line 1 thereof does not show all the changes made thereto. The description of Figure 3 on page 8, lines 24-29 as amended 5-25-06 is inconsistent with that at page 3, lines 20-21 as amended 5-25-06. On page 20, line 10, after “4”, --,-- should be inserted.

Appropriate correction is required.

Claim Language Interpretation

6. The claim language is interpreted in light of the definitions at page 3, line 28-page 4, line 28.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-9, 12 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Cramer et al ‘569 or ‘933 or ‘957.

See Claim Language Interpretation section supra, the Response to Arguments section infra and ‘569 at see col. 2, lines 3-6, col. 2, line 17-col. 3, line 4, col. 3, lines 32-49, col. 4, lines

Art Unit: 3761

24-30, col. 5, lines 33-63, col. 7, line 28-57, col. 9, line 15-col. 14, line 57, col. 15, lines 7-35, col. 17, lines 26-29, col. 20, line 4-col. 21, line 52, col. 22, lines 32-59, col. 25, lines 23-41, col. 27, lines 20-30 and Table 5, especially the 1st Insult. Therefore, the '569 device clearly includes all the claimed structure and function of the claims except for the Gush results set forth in the definition of "hydrophilicity boosting". Attention is invited to Table 5 and col. 25, lines 33-41 again which appears to set forth results consistent with such definition. In any case, '569 teaches the same compositions of nanoparticles applied to the same substrates in the same manner as that disclosed in the instant application having such "hydrophilicity boosting" capability. Therefore there is sufficient factual evidence for one to conclude that the article of '569 would inherently also have such capability when tested as set forth in the instant application, see MPEP 2112.01.

With regard to '933, see Claim Language Interpretation section *supra*, the Response to Arguments section *infra* and col. 2, lines 3-6, col. 2, line 17-col. 3, line 4, col. 3, lines 32-49, col. 4, lines 24-30, col. 5, lines 33-63, col. 7, line 28-57, col. 9, line 15-col. 14, line 52, col. 15, lines 1-30, col. 17, lines 21-24, col. 19, line 65-col. 21, line 45, col. 22, lines 25-52, col. 25, lines 17-35, col. 27, lines 14-24, Table 5, especially the 1st Insult, and the claims and the discussion of '569 which also applies here.

With regard to '957, see Claim Language Interpretation section *supra*, the Response to Arguments section *infra* and paragraphs 9-14, 22, 26, 30-31, 36, 42-71, 75-77, 89, 114-122, 129-130, 140-141, 152, Table 5, especially the 1st Insult, and the claims and the discussion of '569 which also applies here.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

Art Unit: 3761

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

9. Claims 1-9, 12 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Rohrbaugh et al '634.

See Claim Language Interpretation section supra, the Response to Arguments section infra and paragraphs 9-14, 22, 26, 30-31, 36, 42-71, 74-76, 88, 113-122, 128-129, 139-140, 151, Table 5, especially the 1st Insult, and the claims and the discussion of '569 which also applies here.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being obvious over Rohrbaugh et al '634 in view of Aziz '803 and Thompson '926.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Claims 10-11 claim the core having a storage layer between the acquisition layer and the backsheet and the storage layer of a particular material or a backsheet which is liquid impervious, respectively. The prior art reference '634 discloses coating a core and/or acquisition layer which forms a portion of a disposable absorbent article which also includes a topsheet, a backsheet, and a storage layer but not the specifics of the claims. However, see, for example, Aziz at col. 3, line 42-col. 6, line 2 and Thompson at col. 3, line 52-col. 13, line 26, i.e. storage layers of the claimed materials are well known as are storage layers between acquisition layers and backsheets as claimed. Therefore, to employ a storage layer of the materials and located as claimed in claim 10 and a backsheet as claimed in claim 11 as taught by Aziz and Thompson

Art Unit: 3761

with the disposable absorbent article of Rohrbaugh et al '634 would be obvious to one of ordinary skill in the art in view of the recognition that it is well known to use such structures in disposable absorbent articles and disposable absorbent articles being disclosed by the prior art to Rohrbaugh.

12. Claims 1-6, 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weisman et al '746 in view of Aziz '803 and Thompson '926.

Claims 1-6, 10-12, and 14: See Claim Language Interpretation section supra and '746 at abstract, col. 1, lines 6-20, col. 2, lines 17-23, col. 3, lines 28-35, col. 3, line 67-col. 4, line 44, col. 4, lines 46-62, col. 5, lines 12-15, col. 5, line 34-col. 6, line 43, col. 11, line 62-col. 12, line 14 and col. 12, lines 64 et seq, i.e. a disposable absorbent article/diaper/napkin having a durable hydrophilic fluid pervious fibrous web or substrate with a hydrophilicity boosting composition coated thereon including a hydrophilic boosting amount of nanoparticles having a particle size as claimed in claim 1, the web being a nonwoven polyolefin, e.g. polyethylene, and the nanoparticles being inorganic and a silica/silicate. The claims further claim 1) the substrate being an acquisition layer of an absorbent core of a disposable absorbent article, 2) a specific "hydrophilicity boosting", see the Claim Language Interpretation section supra, and 3) the core further including a storage layer of specific material between the acquisition layer and backsheet or backsheet which is liquid impervious. With regard to 1) and 3), see col. 3, lines 28-35 of '746, i.e. discloses improving wicking and absorption properties, i.e. hydrophilicity, of conventional absorbent webs in disposable absorbent articles such as diapers and sanitary napkins, and the portions of Aziz and Thompson cited supra, i.e. disposable absorbent articles include storage/core layers of the claimed composition in combination with acquisition/fluid

Art Unit: 3761

accepting and transporting/absorption and wicking layers and such storage layers between acquisition layers and backsheets as claimed in which such acquisition layer includes hydrophilizing surface treatment. Therefore, to make the web of '746 an acquisition layer, if not already, of an absorbent core of a disposable absorbent article which also includes a storage layer of the composition as claimed located between an acquisition layer and backsheet as claimed as taught by Aziz and Thompson would be obvious to one of ordinary skill in the art in view of the recognition that such structures are conventional layers of disposable absorbent articles and the desire of '746 to improve the wicking and absorption of conventional absorbent layers in such articles with a hydrophilizing treatment. With regard to 2), it is the Examiner's first position that since prior art teaches the same compositions of nanoparticles applied to the same substrates in the same manner as that disclosed in the instant application having such "hydrophilicity boosting" capability, there is sufficient factual evidence for one to conclude that the article of the prior art would necessarily and inevitably also have such capability when tested as set forth in the instant application. In any case, at the very least, the prior art teaches a durable hydrophilic layer in a disposable absorbent article having a coating thereon of nanoparticles of the claimed size which coating improves the hydrophilicity of the layer, i.e. the same general conditions of the claims are disclosed by the prior art. Therefore, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges, i.e. "hydrophilicity boosting" as claimed, by routine experimentation, see *In re Aller*, 105 USPQ 233.

Claim 1 now further claims the acquisition layer substrate being treated with a high energy treatment, and claim 14 requires certain types of such treatment, note MPEP 2113, which '746 does not teach. However see '746 at col. 5, lines 21-33 and '926 at col. 12, lines 34-58.

Art Unit: 3761

Therefore, to also treat the surface of the substrate of '746 with high energy treatment as taught by '926 such that a treated surface is produced would be obvious to one of ordinary skill in the art in view of the recognition that such would provide a wettable surface in combination with the coating without any surfactant residue or dissolving and the desirability of such by '746.

Double Patenting

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. Due to the large number of patents and applications, i.e. claims involved, the following double patenting rejections will specifically address the rejection of one claim of the instant application and one claim of the patent or other application only with respect to each rejection.

15. Claims 1-12 and 14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 and 14 and claims 1-13 and 15, respectively, of copending Application No. 10/758,375 or 10/758,066 in view of Weisman '746, Aziz '803 and Thompson '926.

Although the conflicting claims are not identical, they are not patentably distinct from each other. Since all the applications has the same effective filing date, the one way In re Vogel test applies, i.e. are the claims of the instant application obvious in view of the other application claims? The answer is yes. Claim 1 of the instant application is broader with regard to some aspects and narrower with regard to other aspects of the claim 1 of the other applications. With regard to the broader aspects (e.g. the instant application does not require a core wrap

Art Unit: 3761

surrounding a portion of the storage layer), once an applicant has received a patent for a species or more specific embodiment, he is not entitled to a patent for the generic or broader invention. This is because the more specific anticipates the broader, i.e. the patented claim anticipates the application claim. See *In re Goodman*, supra. With regard to the narrower aspects (e.g. the instant application claim 1 requires a durable hydrophilic fluid pervious substrate layer which is an acquisition layer of a core), the claims of the other applications teach disposable absorbent articles which have the hydrophilicity of a layer boosted by the addition of a composition with nanoparticles but such layer is not an acquisition layer as claimed in instant claim 1. However, see '746 at abstract, col. 1, lines 6-20, col. 2, lines 17-23, col. 3, lines 28-35, col. 3, line 67-col. 4, line 44, col. 4, lines 46-62, col. 5, lines 12-15, col. 5, line 34-col. 6, line 43, col. 11, line 62-col. 12, line 14 and col. 12, lines 64 et seq, i.e. a disposable absorbent article/diaper/napkin having a durable hydrophilic fluid pervious fibrous web or substrate with a hydrophilicity boosting composition coated thereon including a hydrophilic boosting amount of nanoparticles having a particle size as claimed in claim 1 to improve wicking and absorption properties, i.e. hydrophilicity, the substrate being conventional layers in such article/diaper/napkin and the portions of Aziz and Thompson cited supra, i.e. disposable absorbent articles conventionally include storage/core layers, acquisition/fluid accepting and transporting/absorption and wicking layers and top sheets which desire absorption and/or wicking capability, i.e. hydrophilicity, e.g. treated to be hydrophilic. To employ an acquisition layer of an absorbent core in the disposable absorbent article of the other application's claim 1 as taught by Aziz, Thompson and Weisman would be obvious to one of ordinary skill in the art in view of the recognition that it is known to use storage/core layers, acquisition/fluid accepting and transporting/absorption and wicking

Art Unit: 3761

layers and/or top sheets which have the capability to absorb and/or wick i.e. hydrophilicity, e.g. treated to be hydrophilic, in such disposable articles to maximize absorption.

This is a provisional obviousness-type double patenting rejection.

16. Claims 1-12 and 14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the article claims of copending Application No. 11/480,194 and 11/479,545 in view of Weisman '746, Aziz '803 and Thompson '926.

Although the conflicting claims are not identical, they are not patentably distinct from each other. Since all the applications has the same effective filing date, the one way In re Vogel test applies, i.e. are the claims of the instant application obvious in view of the other application claims? The answer is yes. Claim 1 of the instant application is broader with regard to some aspects and narrower with regard to other aspects of the claim 1 of the other applications. With regard to the broader aspects (e.g. the instant application does not require a core wrap surrounding a portion of the storage layer), once an applicant has received a patent for a species or more specific embodiment, he is not entitled to a patent for the generic or broader invention. This is because the more specific anticipates the broader, i.e. the patented claim anticipates the application claim. See In re Goodman, supra. With regard to the narrower aspects (e.g. the instant application claim 1 requires a durable hydrophilic fluid pervious substrate layer which is an acquisition layer of a core), the claims of the other applications teach disposable absorbent articles which have the hydrophilicity of a layer boosted by the addition of a composition with nanoparticles but such layer is not an acquisition layer as claimed in instant claim 1. However, see '746 at abstract, col. 1, lines 6-20, col. 2, lines 17-23, col. 3, lines 28-35, col. 3, line 67-col.

Art Unit: 3761

4, line 44, col. 4, lines 46-62, col. 5, lines 12-15, col. 5, line 34-col. 6, line 43, col. 11, line 62-col. 12, line 14 and col. 12, lines 64 et seq, i.e. a disposable absorbent article/diaper/napkin having a durable hydrophilic fluid pervious fibrous web or substrate with a hydrophilicity boosting composition coated thereon including a hydrophilic boosting amount of nanoparticles having a particle size as claimed in claim 1 to improve wicking and absorption properties, i.e. hydrophilicity, the substrate being conventional layers in such article/diaper/napkin and the portions of Aziz and Thompson cited supra, i.e. disposable absorbent articles conventionally include storage/core layers, acquisition/fluid accepting and transporting/absorption and wicking layers and top sheets which desire absorption and/or wicking capability, i.e. hydrophilicity, e.g. treated to be hydrophilic. To employ an acquisition layer of an absorbent core in the disposable absorbent article of the other application's claim 1 as taught by Aziz, Thompson and Weisman would be obvious to one of ordinary skill in the art in view of the recognition that it is known to use storage/core layers, acquisition/fluid accepting and transporting/absorption and wicking layers and/or top sheets which have the capability to absorb and/or wick i.e. hydrophilicity, e.g. treated to be hydrophilic, in such disposable articles to maximize absorption.

This is a provisional obviousness-type double patenting rejection.

17. Claims 1-13 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the article claims of copending Application No. 11/479,882.

Although the conflicting claims are not identical, they are not patentably distinct from each other. Since the application has the same effective filing date, the one way In re Vogel test applies, i.e. are the claims of the instant application obvious in view of the other application

Art Unit: 3761

claims? The answer is yes. Claim 1 of the instant application is broader with regard to some aspects with regard to claim 11 of the other application. With regard to such broader aspects (e.g. the instant application does not require a backsheet which is liquid impervious), once an applicant has received a patent for a species or more specific embodiment, he is not entitled to a patent for the generic or broader invention. This is because the more specific anticipates the broader, i.e. the patented claim anticipates the application claim. See *In re Goodman*, supra.

This is a provisional obviousness-type double patenting rejection.

Common Ownership

18. A showing that the inventions of '933, '569, '375 and '066 were commonly owned at the time the invention in this application was made in the 5-25-06 response at page 14, lines 12-14 and the first full paragraph of page 22 and precludes a rejection under 35 U.S.C. 103(a) based upon the commonly assigned cases as a reference under 35 U.S.C. 102(f) or (g), or 35 U.S.C. 102(e) for applications filed on or after November 29, 1999.

Response to Arguments

19. With respect to Applicant's remarks of 5-25-06 with regard to matters of form, such remarks have been considered but are either deemed moot in that such issues have not been repeated or are deemed not persuasive because the application has not been amended to overcome the issue. For example, SPANDEX is a currently live trademark according to the Trademark Office. Applicant's remarks with regard to the prior art rejections have been considered but are either deemed moot in that the rejection discussed has not been repeated or is

Art Unit: 3761

deemed not persuasive for the reasons set forth supra. For example the Cramer I, II, III and Rohrbaugh references do teach an absorbent “core” (It is noted that the terminology “core” means “a central and often foundational part usually distinct from the enveloping part by a difference in nature”), a topsheet (it is noted that “top” is defined as “something, as a lid or a cap, that covers or forms the uppermost part”), and a backsheet (It is noted that “back” is defined as “the part or area furthest from the front”, “the part opposite the front”, “located or placed in the rear”, “at, to, or toward the rear or back”), e.g. a core between or enveloped by a sheet that forms the uppermost part and a sheet which forms the part furthest or opposite therefrom, see col. 8, lines 62-65, col. 25, lines 23-32 and claims of ‘569, col. 8, lines 62-65, col. 25, lines 17-26 and claims of ‘933, paragraphs 40 and 140 of ‘957 and paragraphs 40 and 139 of ‘634. It is also noted that claim 1 as now amended does not require all the structure claimed in claim 11 as originally filed. For another example, the paragraph quoted from the Office Action at page 15 of the 5-25-06 response does provide motivation and the prior art references teach the combination of such materials to form a disposable absorbent article which formation is desired by the references. For a third example, Applicant’s remarks on pages 15-18 with regard to the combination of the Weisman, Thompson and the Aziz references are narrower than the teachings of the prior art in that there is no teaching away from ionizing radiation treatment in Weisman, i.e. at col. 5, line 34 it is set forth “can be” not has to or required to be. Continuing, Applicant has not provided any evidence that the Strike Through times are not necessarily and inevitably present in the structure taught by the prior art and/or the relationship of hydrophilicity/wettability and liquid movement through a layer is recognized by Weisman, i.e. is a result effective variable, see MPEP 2144.05, II, B, as well as the paragraph bridging pages 1-2 and page 4, lines 7-9,

Art Unit: 3761

“typically defined” of the instant application. With regard to Applicant’s remarks with regard to the double patenting rejections and common ownership issues, such remarks have been considered but are either deemed moot in that the issue discussed has not been repeated or is deemed not persuasive for the reasons set forth supra, e.g. terminal disclaimers have not been filed with regard to the provisional rejections.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 1 and 10-11 and the cancellation of claim 13 as well as the filing of continuation applications 11/479,545, 11/479,882 and 11/480,194.

Art Unit: 3761

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.M. Reichle
Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
November 14, 2006